

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

**AN ADJUSTMENT OF THE GAS)
AND ELECTRIC RATES, TERMS)
AND CONDITIONS OF LOUISVILLE) CASE NO: 2003-00433
GAS AND ELECTRIC COMPANY)**

and

**AN ADJUSTMENT OF THE ELECTRIC)
RATES, TERMS AND CONDITIONS OF) CASE NO: 2003-00433
KENTUCKY UTILITIES COMPANY)**

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PUBLIC SERVICE
COMMISSION

Attorney General's Motion for Clarification of Order

Comes now the Attorney General of the Commonwealth of Kentucky, by and through his Office of Rate Intervention, and submits this Motion for Clarification of Order. Specifically, the Attorney General respectfully requests the Public Service Commission (hereinafter the "Commission") to issue an order clarifying whether the Commission's order denying, in part¹, the Attorney General's Motion for Rehearing is ripe for an appeal to the Franklin Circuit Court or whether such an appeal would be interlocutory in nature. The Attorney General's motion is based on the following facts and the current posture of the case.

¹The Commission's order denied the Attorney General's request that new depreciation rates should have been used to reflect appropriate service lives, in order to avoid double-counted inflation; to incorporate a 5-year average of experienced salvage expense as part of the depreciation expense; and to return to the ratepayers over a 10-year period the accumulated depreciation balances which have been inflated with excess costs.

STATEMENT OF FACTS

By order dated 12 August 2004 the Commission denied, in part, the Attorney General's Motion for Rehearing. However, prior to that date on 15 July 2004 the Commission, *sua sponte*, reopened the evidentiary records of the cases based on allegations that the companies may have had improper *ex parte* contacts with Commission employees and the settlement negotiations culminating in the partial settlement may have been the product of collusion. Notice was given that a procedural schedule would be forthcoming.

The Commission ultimately entered an order on 26 July 2004 requiring all parties to participate in an informal conference on 4 August 2004 in order to address the issues raised in the 15 July order. The Attorney General participated in the informal conference and requested that all further proceedings in the cases be held in abeyance pending the filing of his report documenting the results of his investigation.² By order dated 12 August 2004 the Commission, in part, ordered that "The AG's motion to hold in abeyance all further proceedings in these rate cases is granted."

MOTION

As seen from the chronological statement of facts, the Attorney General was granted his request that **all proceedings in these rate cases** be held in abeyance by the Commission was granted on 12 August 2004. However, on that same date by a separate order the Commission denied, in part, his request for hearing. Accordingly, the issue arises as to whether the Attorney General should file his appeal on the depreciation issues (see footnote number 1) in order

²The Attorney General's Office commenced an investigation of the Public Service Commission on 6 July 2004 pursuant to his authority under KRS Chapter 367 based on allegations of collusion and *ex parte* contacts at the Commission.

to preserve the issues for appeal or whether the filing of the appeal at this time would be premature.

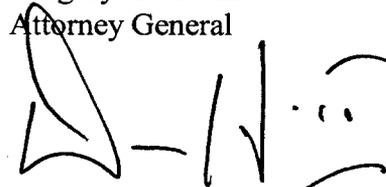
Therefore, the Attorney General here asks for guidance from the Commission in determining whether it intends that the Attorney General should appeal so much of its 12 August 2004 Order to the Franklin Circuit Court within thirty days, by 2 September 2004, that denies rehearing while all other matters continue to be held in abeyance before the Commission.

CONCLUSION

WHEREFORE, the Attorney General respectfully requests the Commission to issue an order clarifying whether the order of 12 August 2004 is now properly appealable.

Respectfully submitted,

Gregory D. Stumbo
Attorney General

A handwritten signature in black ink, appearing to read 'Elizabeth E. Blackford', is written over the printed name of the signatory.

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NOTICE OF FILING AND CERTIFICATE OF SERVICE

I hereby give notice that I have filed the original and 10 true copies of the foregoing Motion for Clarification of Order with the Executive Director of the Kentucky Public Service Commission at 211 Sower Boulevard, Frankfort, KY 40601 this the 25th day of August, 2004 and certify that I have served the parties to these actions by mailing a true copy this same day to the following:

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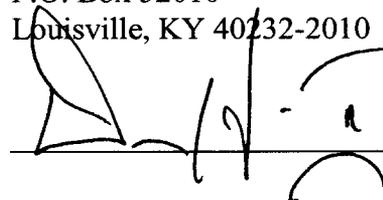
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